

Appl. No. 09/781,310  
Amdt. dated December 13, 2004  
Reply to Office action of June 14, 2004

### REMARKS

There appears to be discrepancies between the application papers and the Official Action as filed. First , page 2 of the Detailed Action refers to 69 pending claims, when in fact there are only 66. Second, paragraph 4 of the Official Action refers to Figs. 8 and 9 , when in fact the application only has 6 Figs. Thirdly, paragraph 9 of the Detailed Action rejects claims 55-69 when in fact only 66 claims are pending. Fourth, the claim groups associated with the rejections do not coincide with the various independent claim sets. The applicant has further attempted to locate the file by way of its Washington associate in order to verify the claim set and drawings in the Patent Office file in this case to no avail. In particular, the Applicant's Washington associate has been informed that the file has and currently is unavailable because it is being scanned. Due to the approaching deadline, the Applicant responds as set forth below as to the extent possible given the situation described above.

### DRAWING OBJECTION

As mentioned above, paragraph 4 of the Detailed Action objects to Figs. 8 and 9 of the application. It is respectfully submitted that this objection to the drawings is in error. The parent application only has six figures, 1-6. Accordingly, the Examiner is respectfully requested to reconsider and withdraw this rejection.

### CLAIM REJECTIONS – 35 U.S.C. § 112

Claims 44-54 have been rejected under 35 U.S.C. § 112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim subject matter which the applicant regards as the invention. The basis of this rejection is based on claim 44. Claim 44 has been cancelled. Moreover, it does not appear that this rejection applies to the case at hand. In particular, claim 44 is dependent upon claim 23. The preamble of claim 23 relates to "A Machine-Readable Medium" as does claim 44. Notwithstanding claims 23-44 have been cancelled. Claim 45 is an independent claim which recites in the preamble "An Apparatus ...".

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Claims 46-66 are dependent upon claim 44. The Examiner's is respectfully requested to reconsider and withdraw this rejection.

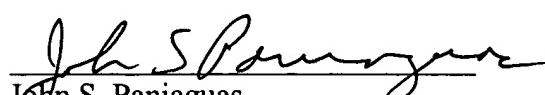
**CLAIM REJECTIONS – 35 U.S.C. § 101**

Claims 1-23, 27-43, 24-26, 55-69, and 44-54 have been rejected under 35 U.S.C. § 101. It is respectfully submitted that the claims as amended define statutory subject matter. In particular, the claims now recite patentable subject matter. In particular, the claims now recite patentable subject matter. In particular, claims 1-22 recite "*A Method of Executed by Computer Under the Control of a Program* for predicting vintage behavior ... and providing an indication of a prediction of vintage behavior." Claims 45-66 recite a data processing apparatus ... which includes the memory and a processor. The processor includes means for calculating a second set of data based on at least one of the first set of data and the first factor; means for calculating a third set of data based on at least one of the first set of data and the second factor; and means for providing an indication of vintage behavior based on at least one of the second set of data and the third set of data ..." Accordingly, it should be clear that the claims 45-66 now recite statutory subject matter within the meaning of 35 U.S.C. § 101. Indeed, the claims now recite a system for calculating data and providing an indication of vintage behavior based on this calculation. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims under 35 U.S.C. § 101.

Respectfully submitted,

KATTEN MUCHIN ZAVIS ROSENMAN

By:



John S. Paniaguas

Registration No. 31,051

Katten Muchin Zavis Rosenman

525 W. Monroe Street

Chicago, IL 60661-3693

Telephone: (312) 902-5200

Facsimile: (312) 577-4532